TABLE OF CONTENTS

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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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August 8, 2006

Captain Raymond Peavy
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

RE: J. S. I. D. File No. 05-0563
LASD File No.: 005-16330-2138-051

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 17, 2005, non-fatal shooting of Harold Tassin by Los Angeles County Sheriff's Deputies Francisco Maldonado and Noe Garcia. We have concluded the deputies acted lawfully in self-defense and in the defense of others.

The following analysis is based upon our review of an investigative file prepared by the Los Angeles County Sheriff's Department (LASD), which included investigative reports, property reports, analyzed evidence reports, and summaries of witness' statements taken during the investigation and submitted to this office by Lieutenant Daniel Rosenberg on June 21, 2006. The District Attorney Command Center was notified of the shooting at approximately 4:42 p.m. on September 17, 2005. The District Attorney Response Team comprised of Deputy District Attorney Corene Locke-Noble and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Compelled statements were not considered in our analysis.

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FACTUAL ANALYSIS

On September 17, 2005, at approximately 4:00 p.m., LASD Century Station Deputies Francisco Maldonado and Noe Garcia were in uniform in a marked black and white police vehicle on patrol in the area of East 124th Street and Mona Boulevard in Los Angeles. While stopped at a stop sign on northbound Mona Boulevard and East 124th Street deputies heard eight to ten gunshots coming from nearby and turned westbound on East 124th Street in order to investigate the source.

They immediately observed a male subject, later identified as West Side Piru[1] gang member, Harold Tassin, holding a blue steel pistol[2] in his right hand and running at full speed on the sidewalk in their direction. Unbeknownst to the deputies, the subject was fleeing from a crime scene on East 124th Street, after shooting a Mona Park Crip[3] gang member several times.

Garcia, the driver, stopped his patrol vehicle in front of [redacted] Then Garcia and Maldonado, got out of the vehicle, drew their service weapons and took cover behind the driver's and passenger's side doors, respectively. At the same time Tassin crouched behind several trash cans along the curb at [redacted] East 124th Street.

Suddenly, Tassin "popped up" above the trash cans and pointed his weapon directly at the deputies. Fearing for their own life and that of their partner, Maldonado and Noe fired multiple rounds from their 9 millimeter service weapons at Tassin, who began running southbound along the driveway. Tassin continued pointing his weapon at the deputies before jumping a chain link fence. While traversing the fence with his left hand, Tassin pointed the handgun at the deputies. Both deputies fired additional rounds at Tassin before he disappeared from their view in the backyard of [redacted] East 124th Street. After containment was established, a K9 found Tassin hiding in the backyard. Deputy Maldonado fired two to four rounds. Deputy Garcia fired five to seven rounds.

When Tassin was arrested, deputies discovered he had sustained a gunshot wound to the right knee and was treated at the scene by paramedics. Subsequently, Tassin was transported to St. Francis Medical Center for additional treatment.

A scent dog located Tassin's weapon, a Colt .45 caliber semiautomatic pistol, lying in tall grass in the backyard of [redacted] where he had thrown it while fleeing.

Investigators canvassed the area and spoke to several residents. Many residents in the area heard but did not see the shooting.

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[1] Sheriff's Department records indicated Tassin was a gang member.
[2] Deputy Maldonado described the weapon as a black pistol.
[3] The victim of the assault, [redacted] indicated to detectives he used to be a gang member but was no longer affiliated with a gang.

Investigators interviewed brothers [redacted] and [redacted] in their home, at [redacted] Their residence is located on the south side of East 124th Street. [redacted] stated he was lying on his living room couch when he heard four to five gunshots west of his home. [redacted] was sitting on the east end of the living room couch when he heard the gunshots. They got up and looked out of their living room window and saw a male black running with a black handgun in his right hand.[4] A few seconds later they heard a second volley of gunfire, but did not see who fired those shots. Subsequently, [redacted] stepped outside his home onto his front porch and saw two Sheriff's deputies standing in the mouth of the driveway of the residence east of his position pointing their firearms south down the driveway.

As a result of this incident the District Attorney's Office charged Harold Tassin in Superior Court Case number TA081194 with one count of attempted willful, deliberate, premeditated murder, in violation of Penal Code Sections 664/187(a), a felony; two counts of assault with a deadly weapon on a peace officer in violation of Penal Code Section 245(d)(2), a felony; and alleged he personally used a firearm in the commission of these offenses pursuant to Penal Code Sections 12022.53(b), (c), and (d), 12022.5(a) and (d).

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams (1977) 75 Cal.App.3d 731.*

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *California Criminal Jury Instructions 3470.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins (1961) 189 Cal. App.3d 575.*

CONCLUSION

The evidence gathered in this investigation indicated Harold Tassin encountered LASD deputies immediately after he attempted to murder [redacted] During his flight from the scene, Tassin assaulted Deputes Maldonado and Garcia with a firearm prompting the

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[4] [redacted] indicated he did not notice the gun in Tassin's hand.

deputies to respond with deadly force by firing their service weapons wounding Tassin and ending the encounter.

Given the appearance of a rapidly evolving, potentially life-threatening situation that confronted Deputies Francisco Maldonado and Noe Garcia, we conclude both deputies acted lawfully in self-defense and in the defense of others. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

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c: Deputy Francisco Maldonado #[redacted]
Deputy Noe Garcia #[redacted]